

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 617 of 2004

Between:

S. Venkateswara Rao, S/o Subba Rao,
R/o Bhaskarnagar Colony, Velvadam (V),
Mylavaram (M), Krishna District.

..... PETITIONER

AND

1. The District Co-operative Officer, Krishna District, at Machilipatnam.
2. The Divisional Co-op. Officer, Vijayawada, Krishna District.
3. The Primary Agriculture Co-op. Credit Society Ltd., Velvadam (V),

Mylavaram (M), Krishna District, Rep. by its
Person-in-Charge/President.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in issuing Proceedings dated 11-9-2003 terminating my services as Attender in the 3rd respondent society as bad, illegal, arbitrary, discriminatory and in violation of Orders in W.P.No. 9406 of 2003, dt. 13-5-2003 and offends Articles 14, 16 and 21 of the Constitution of India and it is liable to be set aside and consequentially to direct the respondents to re-instate the petitioner into service with all consequential benefits including back wages.

Counsel for the Petitioner: MR.V.VENUGOPALA RAO

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following:

ORDER:

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Learned Counsel appearing for the petitioner submits that the petitioner herein is the petitioner No.3 in W.P.No.9406 of 2003 and batch which was disposed of by this Court on 13.5.2003 with the following order:

“Once the proposals in respect of staffing pattern, qualifications, pay scales and other allowances are sent and are pending, it is not appropriate for the authorities to issue the impugned proceedings of termination, without taking a final decision on the said proposals. Under the circumstances, it is agreed to by the learned Government Pleader that till the final decision on the proposals of staffing pattern etc., is taken by the authorities, the petitioners shall not be retrenched/removed.

In view of the said submission of learned Government Pleader, the Writ Petitions are disposed of with a direction to the respondents not to retrench/remove the petitioners herein from service till final decision is taken on the proposals. No costs.”

2. Thereafter without disclosing any particulars as to whether the proposals in respect of staffing pattern made by the third respondent are approved or not and whether the continuance of the petitioner is contrary to the mandatory provisions of Section 116-C of the A.P. Cooperative Societies Act, the third respondent passed an order dated 11.9.2003 removing the petitioner pursuant to the proceedings issued in Rc.No.293/2003-E, dated 27.1.2003 of the second respondent-Divisional Cooperative Officer, Vijayawada. It is stated that the second respondent issued the said proceedings dated 27.1.2003 directing the third respondent-Society to terminate the services of the staff appointed after 1.7.1995.

3. In that view of the matter, I am of the opinion that the Society is bound to implement the orders of this Court in W.P.No.9406 of 2003 and batch dated 13.05.2003 and they can take action depending upon the final decision to be taken by the Registrar of Cooperative Societies on the staffing pattern proposed by them and as to be fixed by the Registrar of Cooperative Societies in conformity with Section 116-C of the Act and Rules 28(4)(b) and 36(B) of the A.P. Cooperative Societies Act 7 of 1964 Rules.

4. Accordingly, the impugned order is set aside and the Writ Petition is allowed giving liberty to the 3rd respondent-Society to pass appropriate orders keeping in view the mandatory provisions of Section 116-C of the Act and Rules 28(4)(b) and 36(B) of the A.P. Cooperative Societies Act 7 of 1964 Rules. There shall be no order as to costs.

V. ESWARAIAH, J

Dated:04-11-2004.

ccm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Fourth day of November, Two thousand and four.

ASSISTANT REGISTRAR

To

1. The District Co-operative Officer, Krishna District, at Machilipatnam.
2. The Divisional Co-op. Officer, Vijayawada, Krishna District.
3. The Person-in-Charge/President.

The Primary Agriculture Co-op. Credit Society Ltd., Velvadam (V),

Mylavaram (M), Krishna District,

4. 2 CCs to GP for Cooperation, High court buildings, Hyderabad (OUT)

5. 2 CD copies.